

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

CR 18 0418

WILLIAM F. GARLOCK,

FILED
SEP - 6 2018
AMERICAN
COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

SEP - 6 2018
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Vc

DEFENDANT(S).

INDICTMENT

**18 U.S.C. § 152(9) - Fraudulent Withholding of Recorded Information in a
Bankruptcy Case;**
18 U.S.C. § 981(a)(1)(C) & 28 U.S.C. § 2461(c) - Forfeiture Allegation

18 U.S.C. § 981(a)(1)(C) & 28 U.S.C. § 2461(c) - Forfeiture Allegation

A true bill.

Janice Taylor

Foreman

Filed in open court this 20th day of

I began open court this Sept. day
Sept. 2018

Stephen Ybawm

Clerk

Bajil, 3

Electr (1) Lepen Bail, \$ 100 Arrest warrant 1-MTT

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

Count 1 - 18 U.S.C. § 152(9) - Fraudulent Withholding of Recorded Information in a Bankruptcy Case

Forfeiture allegation - 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)

PENALTY: 5 years' imprisonment, \$250,000 fine, 3 years of supervised release, \$100 special assessment, restitution, forfeiture

Petty
 Minor
 Misdemeanor
 Felony

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SEP - 6 2018

DEFENDANT - U.S.

WILLIAM F. GARLOCK

SUSAN Y. SOONG
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DISTRICT COURT NUMBER

CR 18 0418

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprocution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on this form Alex G. Tse

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Kyle F. Waldinger

This report amends AO 257 previously submitted

PROCESS:

SUMMONS NO PROCESS* WARRANT

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address:

Bail Amount:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

1 ALEX G. TSE (CABN 152348)
2 United States Attorney
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FILED
SEP - 6 2018
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
B [REDACTED]

VC

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) CR. 18 0418
12 Plaintiff,) C.A.
13 v.) VIOLATION: 18 U.S.C. § 152(9) – Fraudulent
14 WILLIAM F. GARLOCK,) Withholding of Recorded Information in a
15 Defendant.) Bankruptcy Case; 18 U.S.C. § 981(a)(1)(C) & 28
16 _____) U.S.C. § 2461(c) – Forfeiture Allegation
17) SAN FRANCISCO VENUE
18)
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INDICTMENT

18 The Grand Jury charges:

19 At all times relevant to this Indictment, unless otherwise specified:

20 Introductory Allegations

21 1. The defendant, WILLIAM F. GARLOCK (“defendant” or “GARLOCK”), was an
22 individual who resided in the State of California, including in San Mateo County in the Northern District
23 of California.

24 2. The Bankruptcy Code is a set of laws, codified in Title 11 of the United States Code, that
25 establishes the bankruptcy system in the United States. A bankruptcy case is typically commenced by
26 the filing of a petition for bankruptcy in a United States Bankruptcy Court. A bankruptcy petition may
27 be filed by a person seeking relief from debts (*i.e.*, a “voluntary petition”). A bankruptcy petition may
28 also be filed by other individuals (such as a person’s creditors) who seek to place that person’s assets

INDICTMENT

1 and liabilities into a bankruptcy estate (*i.e.*, an “involuntary petition”). Under either scenario, the person
2 who is the subject of the bankruptcy petition is referred to as the “Debtor.” Other documents that are
3 commonly filed in a bankruptcy case include bankruptcy schedules and a document entitled “Statement
4 of Financial Affairs” (“SOFA”). The debtor attests to what he or she submits in the bankruptcy
5 schedules and SOFA under penalty of perjury.

3. The filing of a bankruptcy case creates a “bankruptcy estate,” which includes all rights,
title, shares, or interest in property owned by a debtor at the time the petition was filed. A bankruptcy
trustee is a private individual appointed to be in charge of administering the bankruptcy estate.

9 4. One of the roles of the United States Bankruptcy Court and the bankruptcy trustee is to
10 ensure that assets of the bankruptcy estate are preserved for the benefit of creditors of the Debtor and of
11 the bankruptcy estate. In part to achieve these ends, Title 11, United States Code, Section 521(c)(3)
12 directs the Debtor to "cooperate with the trustee as necessary to enable the trustee to perform the
13 trustee's duties . . ." Similarly, Title 11, United States Code, Section 521(c)(4) directs the Debtor to
14 "surrender to the trustee all property of the estate and any recorded information, including books,
15 documents, records, and papers, relating to property of the estate . . ."

12th & Kissling LLC and the 12th Street Garage

17 5. 255 12th Street & Kissling LLC ("12th & Kissling LLC") was a California limited
18 liability company. On or about February 5, 2009, GARLOCK caused 12th & Kissling LLC's articles of
19 organization to be filed with the California Secretary of State. The articles of organization were signed
20 by GARLOCK as the "organizer." Although other individuals and entities may have been associated
21 "on paper" with 12th & Kissling LLC, GARLOCK maintained substantial or primary control over the
22 activities, finances, and assets of 12th & Kissling LLC.

23 6. On or about February 27, 2009, 12th & Kissling LLC purchased the parking garage and
24 real property located at 255 12th Street in San Francisco, California (“12th Street Garage”).

25 7. On or about December 9, 2011, 12th & Kissling LLC sold the 12th Street Garage to two
26 other limited liability companies. A grant deed pertaining to that transfer was filed with the San
27 Francisco Assessor-Recorder that day.

28 | //

GARLOCK's Bankruptcy Case

2 8. On or about March 13, 2012, an involuntary petition under Chapter 7 of the Bankruptcy
3 Code was filed against GARLOCK and several entities in the United States Bankruptcy Court for the
4 Northern District of California (“Bankruptcy Court”). It was assigned case number 12-30802. 12th &
5 Kissling LLC was not named as a debtor in the petition. On July 9, 2012, the Bankruptcy Court issued
6 its Order for Relief, which noted that GARLOCK had failed to plead or respond as otherwise required
7 by law. The Bankruptcy Court ordered the case to be administered under Chapter 7 of the Bankruptcy
8 Code. A private bankruptcy trustee (“Trustee”) was appointed and added to the case that day.

9 9. On or about September 5, 2013, counsel for the Trustee filed an *Ex Parte* Application and
10 Order Under 11 U.S.C. § 521. That filing sought an order from the Bankruptcy Court “requiring the
11 Debtor [*i.e.*, GARLOCK] to cooperate with the Trustee and surrender to the Trustee all records of the
12 Debtor and entities to which the Debtor has a legal or equitable interest . . .”

13 10. On or about September 5, 2013, and based on the Trustee's *Ex Parte* Application, the
14 Bankruptcy Court issued an Order Compelling Compliance with 11 U.S.C. § 521 ("Order"). The Order
15 directed GARLOCK to comply with his duties under 11 U.S.C. § 521(a)(3) to cooperate with the
16 Trustee. The Order also required GARLOCK to comply with his duty under 11 U.S.C. § 521(a)(4) to
17 surrender certain documents to the Trustee. The documents covered by the Order included all
18 documents regarding Royal Parking Corporation; all documents related to real property located on the
19 "600" block of Patrol Road in Woodside, California ("Patrol Road Property"); all documents regarding
20 Royal Parking Management, LLC; and all documents regarding 12th & Kissling LLC, Gemia
21 Investments LLC, and 12th Street Garage LLC. The Bankruptcy Court also ordered GARLOCK to
22 surrender to the Trustee "any document evidencing the distribution of proceeds from the sale of the 12th
23 Street Garage, including but not limited to financial records." The Order further provided that, if any
24 document that was ordered to be surrendered by GARLOCK "no longer exists, the Debtor shall file a
25 declaration under penalty of perjury with the Court explaining in detail the disposition of the documents
26 and shall surrender concurrently to the Trustee any documentary evidence to support the explanation."

27 11. On or about September 19, 2013, GARLOCK provided a two-page letter under his
28 signature and more than 160 pages of documents to the Trustee. In his letter, GARLOCK stated that he

1 was "not an owner, office [sic], shareholder, director or member of the entities Royal Parking
2 Corporation, Royal Parking LLC, or 225 [sic] 12th Street & Kissling LLC, Gemia Investments, LLC or
3 12th Street Garage." GARLOCK represented that, "in an effort to comply with the Court's Order of
4 9/5/13," he had "contacted these entities and the representatives of each of these companies gave [him]
5 copies" of the documents enclosed with the letter. In providing this letter and the enclosed documents,
6 GARLOCK knowingly and fraudulently withheld recorded information relating to his property and
7 financial affairs and to entities and issues identified in the Order, including but not limited to recorded
8 information (a) pertaining to promissory notes in which he was the joint borrower with 12th & Kissling
9 LLC, (b) evidencing the distribution of proceeds from the sale of the 12th Street Garage, and (c) related
10 to the Patrol Road Property.

11 COUNT ONE: (18 U.S.C. § 152(9) – Fraudulent Withholding of Recorded Information in a
12 Bankruptcy Case)

13 12. The factual allegations contained in paragraphs 1 through 11 are re-alleged and
14 incorporated herein.

15 13. On or about September 19, 2013, in the Northern District of California, the defendant,
16 WILLIAM F. GARLOCK,
17 then being a debtor in bankruptcy under Title 11 in case number 12-30802 in the United States
18 Bankruptcy Court for the Northern District of California, knowingly and fraudulently withheld from the
19 trustee and other officers of the court, entitled to its possession, material recorded information (including
20 books, documents, records, and papers) relating to GARLOCK's property and financial affairs, in
21 violation of Title 18, United States Code, Section 152(9).

22
23 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

24 14. The allegations contained in paragraphs 1 through 13 are re-alleged and incorporated
25 herein.

26 15. Upon conviction for the offense alleged in Count One of this Indictment, the defendant,
27 WILLIAM F. GARLOCK,
28 shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title

1 28, United States Code, Section 2461(c), any property, real or personal, that constitutes, or is derived
2 from, proceeds that are traceable to a violation of Title 18, United States Code, Section 152, including
3 but not limited to a sum of money equal to the total amount of proceeds the defendant obtained or
4 derived, directly or indirectly, as the result of that violation.

5 16. If any of the property described above, as a result of any act or omission of the defendant:

- 6 a. cannot be located upon the exercise of due diligence;
- 7 b. has been transferred, or sold to, or deposited with, a third party;
- 8 c. has been placed beyond the jurisdiction of the court;
- 9 d. has been substantially diminished in value; or

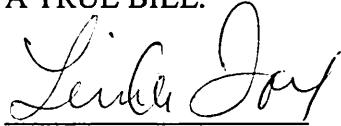
10 e. has been commingled with other property that cannot be divided without difficulty,

11 any and all interest the defendant has in other property shall be vested in the United States and forfeited
12 to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title
13 18, United States Code, Section 982(b)(1).

14 All in violation of Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States
15 Code, Section 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure.

16
17 DATED: *Sept, 6, 2018*

18 A TRUE BILL.

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FOREPERSON

21 ALEX G. TSE
22 United States Attorney

23
24 JOHN H. HEMANN
25 Deputy Chief, Criminal Division

26 (Approved as to form: *Waldinger*)
27 AUSA Waldinger

United States District Court
Northern District of California

CRIMINAL COVER SHEET

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case.

Case Name:

~~SEALED~~
~~BY COURT ORDER~~

CR 18 0418

Case Number:

USA v. William F. Garlock

VC

Total Number of Defendants:

1 2-7 8 or more

Is This Case Under Seal?

Yes No

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes No

Venue (Per Crim. L.R. 18-1):

SF OAK SJ EUR MON

Is any defendant charged with a death-penalty-eligible crime?

Yes No

Assigned AUSA (Lead Attorney):

Kyle F. Waldinger

Is this a RICO Act gang case?

Date Submitted:

Yes No

9/6/2018

Comments: